

Workforce Innovation and Opportunity Act

Nebraska Department of Labor
Office of Employment & Training

Interim Policy on Eligibility for Youth Programs

Reference:

Workforce Innovation and Opportunity Act (WIOA) Sections 3, 129, and 188; TEGL 23-14.

Background:

Eligibility for youth programs is defined under the provisions of the Workforce Innovation and Opportunity Act (WIOA) rules and regulations.

Action:

After a 10 day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: ndol.wioa_policy@nebraska.gov.

Local areas need to establish a policy on eligibility for youth programs addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

Policy:

All youth who participate in the youth program must be registered, which requires the collection of information to support a determination of eligibility. Individuals between the ages of 14 and 21 at registration who meet specific criteria are considered in-school youth. Individuals between the ages of 16 and 24 at registration who meet specific criteria are considered out-of-school youth. Equal opportunity data must be collected on individuals during the registration process.

Eligibility Criteria

Individuals who apply to participate in the youth program under WIOA shall meet the following criteria as described in WIOA Sections 3(18) and 129(a):

- Is an In-School Youth or an Out-of-School Youth;¹

1) To qualify as an **In-School Youth**, the individual must be:

- a. Attending school (as defined by State law);

Attending School - Neb. Rev. Stat. §§ 79-201 and 79-202 explain mandatory school attendance for individuals between 6 and 16 years of age.² Nebraska state law does not include post-secondary education in the definition of “attending school.”

¹ WIOA Section 3(18)

² A person who has legal or actual charge or control of a child who is at least 16 years of age but less than 18 years of age may withdraw such child from school before graduation and be exempt from the

Neb. Rev. Stat. § 79-201 requires:

- Enrollment in an approved school;
 - Approved school includes public, private, denominational, or parochial schools that meet the requirements for legal operation under Chapter 79.
 - Approved school also includes schools under Neb. Rev. Stat. § 79-1601 that elect not to meet the approval or accreditation requirements, which includes home school.
- Regular attendance each day the school is open unless
 - Excused by school authorities;
 - Illness makes attendance impossible; or
 - Severe weather makes attendance impossible.
- Providers of Adult Education under Title II of WIOA, YouthBuild programs, and Job Corps programs are not considered to be schools.³

- b. Not younger than 14 or older than 21 at the time of enrollment. Because age eligibility is based on age at enrollment, participants may continue to receive services beyond the age of 21 once they are enrolled in the program;⁴

Age Limits – Public schools are required to provide free instruction to any person between the ages of 5 and 21 who has not completed high school, or received a diploma of high school equivalency.⁵ There is no age limitation for other types of schools, including those that elect not to meet the approval or accreditation requirements.

- c. A low-income individual; and

Low Income Individual – WIOA Section 3(36) defines a "low income individual" as one who:

- Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the Supplemental Nutrition Assistance Program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the program of block grants to states for Temporary Assistance for Needy Families Program under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the supplemental security income established under Title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or State or local income-based public assistance;
- Is in a family with total family income that does not exceed the higher of:
 - The poverty line, for an equivalent period; or

mandatory attendance requirements of Neb. Rev. Stat. § 79-201. Otherwise, the mandatory school attendance age is until the child reaches 18 years of age.

³ 20 CFR § 681.230

⁴ 20 CFR § 681.220

⁵ Neb. Const. art. VII, sec. 1; 92 Neb. Admin. Code §19-003

- Seventy percent of the lower living standard income level, for an equivalent period.
- Is a homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), or a homeless child or youth (as defined under Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));
- Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);
- Is a foster child on behalf of whom state or local government payments are made; or
- Is an individual with a disability whose income meets the income requirement of (2), but who is a member of a family whose income does not meet this requirement.
- Youth living in a high poverty area.

High Poverty Area – Nebraska has defined “high poverty area” as census tracts where 30% or more of the households are below the poverty level, as determined by the most recent United States Census Bureau’s American Community Survey.⁶ Attachment A provides a current list of Nebraska’s census tracts meeting this definition.⁷

The U.S. Census Bureau provides an individual address search tool to find the census tract number that corresponds with an address. This tool is located on the middle right side of the screen at

<http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>.

Note: Census tracts may change with each ten year census. The most recent census tracts were designated in 2010.

d. One or more of the following:

i. Basic skills deficient.

Basic Skills Deficient – WIOA Section 3(5) defines “basic skills deficient” as an individual:

- Who is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or
- Who is a youth or adult, that the individual is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society.

ii. An English language learner.

iii. An offender.

⁶ 20 CFR § 681.260

⁷ Taken from the 2013 American Community Survey, Table number B17017

- iv. A homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), a homeless child or youth (as defined in Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2))), a runaway, in foster care or has aged out of the foster care system, otherwise eligible for assistance under Section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.
- v. Pregnant or parenting.
- vi. A youth who is an individual with a disability.
- vii. An individual who requires additional assistance to complete an educational program or to secure or hold employment.⁸

Requires Additional Assistance to Complete an Educational Program or to Secure and Hold Employment – Definitions and eligibility documentation requirements regarding the "requires additional assistance to complete an educational program or to secure and hold employment" criterion shall be established at the local level. The policy must be included in the local plan.⁹

All in-school youth must be low income to meet the eligibility criteria, except those that fall under the low-income exception.¹⁰

2) To qualify as an **Out-of-School Youth**, the individual must be:¹¹

- a. Not attending any school (as defined by state law¹²);¹³
- b. Is no younger than 16 or older than 24; AND
- c. One or more of the following:
 - i. A school dropout.

School Dropout – WIOA Section 3(54) defines "school dropout" as an individual who is

- No longer attending any school; and
- Who has not received a secondary school diploma or its recognized equivalent.
- Dropout status must be verified at enrollment.

- ii. A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter.

⁸ WIOA Sections 3(27) and 129(a)(1)(C); 20 CFR § 681.220

⁹ 20 CFR § 681.300

¹⁰ 20 CFR § 681.250

¹¹ WIOA Sections 3(46) and 129(a)(1)(B)

¹² For the purposes of defining what institutions meet the definition of a "school," please see Chapter 85 of the Nebraska Revised Statutes. Chapter 85 recognizes community colleges and other institutions of higher education, both public and private. As officially recognized educational institutions, these entities will be considered "schools" for the purposes of the Out-of-School youth requirements.

¹³ Neb. Rev. Stat. § 79-201

- iii. A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is
 - 1. Basic skills deficient; or
Basic Skills Deficient – WIOA Section 3(5) defines “basic skills deficient” as an individual:
 - Who is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or
 - Who is a youth or adult that the individual is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society.
 - 2. An English language learner.
- iv. An individual who is subject to the juvenile or adult justice system.
- v. A homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), a homeless child or youth (as defined in Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2))), a runaway, in foster care or has aged out of the foster care system, otherwise eligible for assistance under Section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.
- vi. An individual who is pregnant or parenting.
- vii. A youth who is an individual with a disability.
- viii. A low-income individual who requires additional assistance to enter or complete an education program or to secure or hold employment.

Requires Additional Assistance to Complete an Educational Program or to Secure and Hold Employment – Definitions and eligibility documentation requirements regarding the “requires additional assistance to complete an educational program or to secure and hold employment” criterion shall be established at the local level. The policy must be included in the local plan.

An individual who is out-of-school at the time of enrollment and subsequently placed in an alternative school or any school, is an out-of-school youth for purposes of the 75 percent expenditure requirement.¹⁴

Youth Who Are Not Low-Income Individuals

¹⁴ 20 CFR § 681.240

WIOA allows a low-income exception where **5 percent** of all WIOA youth participants may be participants who ordinarily would be required to be low-income for eligibility purposes and who meet all other eligibility criteria for WIOA youth except the low-income criteria. A program must calculate the five percent based on the percent of all youth served by the program in the local area's WIOA youth program in a given year.¹⁵

Enrollment

Enrollment is the process for collecting information for supporting a determination of eligibility. In order to participate in youth programs, participants must enroll in one of the 14 WIOA youth program elements.¹⁶

Concurrent Enrollment

Under Section 3 of WIOA, eligible adults are defined as individuals age 18 or older.¹⁷ WIOA defines eligible youth as 14 through 21 years of age, if in-school youth,¹⁸ and 16 through 24, if out-of-school youth.¹⁹ Thus, individuals between the ages of 18 through 24 [at registration] may be eligible for both adult and youth programs.

- Eligible individuals who are 18 through 24 years old [at registration] may participate in adult and youth programs concurrently. Such individuals must be eligible under the youth and adult/dislocated worker eligibility criteria applicable to the services received. Local program operators should determine the appropriate level and balance of services under the youth and adult programs. This determination should be driven by program design and services provided.²⁰
- Local program operators must identify and track the funding streams which pay the costs of services provided to individuals who are participating in youth and adult/dislocated worker programs concurrently, and ensure that services are not duplicated.²¹

A local program should determine the appropriate program for the participant based on the service needs of the participant and if the participant is career-ready based on an objective assessment of their occupational skills, prior work experience, employability, and participants needs as required in WIOA Section 129(c)(1)(A).²²

Application Time Limit

NEworks is used by all of the American Job Centers in Nebraska to collect data items of several of the One-Stop partners. The WIOA Application Date is the date when the WIOA Application is created. When entering it on NEworks, it cannot be a date in the

¹⁵ 20 CFR § 681.250

¹⁶ 20 CFR § 681.310(a) and (b), WIOA NPRM Section-by-Section Discussion of Proposal

¹⁷ WIOA Section 3(2)

¹⁸ WIOA Section 129(a)(1)(C)

¹⁹ WIOA Section 129(a)(1)(B)

²⁰ 20 CFR § 681.430(a)

²¹ 20 CFR § 681.430(b)

²² 20 CFR § 681.440

future. The WIOA Participation Date is the date following a determination of eligibility (when necessary) to participate in the program when the individual begins receiving a service funded by the program in either a physical location (American Job Center) or remotely through electronic technologies. It counts as the official point when the participant begins counting in performance measures. Under this policy, if over 90 days elapse between the WIOA Application Date and the WIOA Participation Date, then the application will be closed. Even with the ninety day limit, there are several items on NEworks that must be verified and updated (when appropriate) at the date of WIOA participation including: Education Level; School Status, Employment Status, Enrolled in Education at Participation, Unemployment Compensation, and Age at Participation. A youth's dropout status must be verified at the time of WIOA youth program enrollment.²³

Former WIA Participants

On July 1, 2015, all WIA youth participants who are still enrolled in the WIA youth program *must* be grandfathered into the WIOA youth program, even if the participant would not otherwise be eligible for WIOA. Local youth programs are not required to complete an eligibility re-determination if the participant has been determined eligible and enrolled under WIA. Furthermore, these participants must be allowed to complete the WIA services specified in their individual service strategy.²⁴

Nondiscrimination

WIOA Section 188 provides that no individual may be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.

Participation in programs and activities must also be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Individuals with employment authorization may access any WIOA services for which they otherwise would qualify.

Verification of Lawful Presence

Each agency responsible for determining eligibility for WIOA benefits in Nebraska is required to

1. Have each applicant for WIOA services attest that he or she is a U.S. citizen or a qualified alien. This must be done using the format prescribed by the Nebraska Department of Administrative Services (DAS).
 - If in the above Step 1, the applicant indicates he or she is an alien, then complete Step 2 as follows:

²³ 20 CFR § 681.240

²⁴ TEGL 23-14

2. Verify his or her lawful presence in the United States using the SAVE (Systematic Alien Verification for Entitlements) Program operated by the U.S. Department of Homeland Security.

Enforcement of Military Selective Service Act

Local programs shall ensure that each individual participating in any program established under Title I of WIOA or receiving any assistance or benefit under such Title, has not violated Section 3 of the Military Selective Services Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such Section.²⁵

Disclaimer

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

²⁵ WIOA Section 189(h)

Appendix A

Nebraska's Census Tracts Meeting "High Poverty" Definition (30% or more of Household at or below the Poverty Line)

Greater Lincoln			
Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 6, Lancaster County, Nebraska	3	92	0.910891
Census Tract 17, Lancaster County, Nebraska	2846	1217	0.427618
Census Tract 20.02, Lancaster County, Nebraska	1528	618	0.40445
Census Tract 20.01, Lancaster County, Nebraska	1468	569	0.387602
Census Tract 2.02, Lancaster County, Nebraska	1669	623	0.373277
Census Tract 7, Lancaster County, Nebraska	1087	405	0.372585
Census Tract 4, Lancaster County, Nebraska	1951	723	0.370579
Census Tract 5, Lancaster County, Nebraska	630	221	0.350794
Census Tract 19, Lancaster County, Nebraska	381	133	0.349081
Census Tract 31.03, Lancaster County, Nebraska	893	309	0.346025
Census Tract 3, Lancaster County, Nebraska	1504	457	0.303856

Greater Nebraska			
Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 9696, Buffalo County, Nebraska	1632	567	0.347426
Census Tract 9657, Adams County, Nebraska	558	180	0.322581
Census Tract 3, Dakota County, Nebraska	2235	680	0.304251

Greater Omaha

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 16, Douglas County, Nebraska	148	81	0.547297
Census Tract 7, Douglas County, Nebraska	613	283	0.461664
Census Tract 8, Douglas County, Nebraska	634	287	0.452681
Census Tract 11, Douglas County, Nebraska	1077	477	0.442897
Census Tract 6, Douglas County, Nebraska	468	199	0.425214
Census Tract 60, Douglas County, Nebraska	1402	569	0.405849
Census Tract 40, Douglas County, Nebraska	1480	587	0.396622
Census Tract 59.02, Douglas County, Nebraska	755	296	0.392053
Census Tract 52, Douglas County, Nebraska	530	206	0.388679
Census Tract 29, Douglas County, Nebraska	1472	566	0.384511
Census Tract 51, Douglas County, Nebraska	1008	357	0.354167
Census Tract 61.02, Douglas County, Nebraska	1462	517	0.353625
Census Tract 4, Douglas County, Nebraska	840	295	0.35119
Census Tract 19, Douglas County, Nebraska	792	265	0.334596
Census Tract 12, Douglas County, Nebraska	957	318	0.332288
Census Tract 38, Douglas County, Nebraska	1576	521	0.330584
Census Tract 53, Douglas County, Nebraska	854	279	0.326698
Census Tract 5, Douglas County, Nebraska	575	180	0.313043
Census Tract 39, Douglas County, Nebraska	940	293	0.311702
Census Tract 21, Douglas County, Nebraska	867	267	0.307958
Census Tract 32, Douglas County, Nebraska	921	279	0.302932